Expenditure

Home (1942) Department.

Ms SERIES.

p.17 (E)

G.O. No. 2845

Dated 7.8.42

M

[Despatch Abstract.]

Jacob - Warder No.5 Alipuram Jail Bellary — Reduction to II grade - Memorial to Govt — Rejected

M

C.F. 32.

Jail Department

From (Name) Major G.S. Gill, O.B.E., I.M.S.,
Designation Inspr.-Genl. of Prisons,
Station Coimbatore.

UNDER SECRETARY TO G
Received 9-JUN 1942 Registered 1528
9.6.42

To
The Secretary to Government,
Home Department,
MADRAS.

Enclosures:

R.O.C. No. 1106-B4-42. dated 5th June 1942.

Sir,

Warder No.5 -
JACOB - [illegible] - Alipuram Jail,
Bellary - Reduction from 1st Grade
to 2nd Grade Warder - Appeal to Government -
forwarded.

***

I forward, herewith, an appeal petition from warder No. 5 Jacob of the Alipuram Jail, Bellary which is addressed to the Secretary to Government. It is against the orders of the Superintendent of the Alipuram Jail, reducing him as a second grade warder.

2. The appellant was reduced from I Grade to II Grade in connection with the escape of 4 D.C.I. prisoners from the Alipuram Jail on 8-5-1941. The case against the appellant, and three others warders concerned in the case was originally handed over to the Police, but the District Superintendent of Police, Bellary having reported the case as undetected, the appellant and other warders concerned were dealt with -- departmentally according to Memo. No. 14540-C-5, Home Department dated 28-7-1941. The Superintendent of the Jail on enquiry reduced the appellant to the second grade.

3. The enquiry was conducted as per rules and the correct procedure was followed except that he was asked to show cause why he should not be punished instead specifically for -- reduction-vide Superintendent's Memo. No. M 1584, dated 9-8-41 and the appellant was given every opportunity to defend -- himself. The appellant in his defence statement stated that he did not want to be heard in person and that he did not wish to examine any defence witnesses.

4. Against the orders of the Superintendent, reducing him to ordinary grade, the appellant put in an appeal petition to me. But on perusing the papers of enquiry and the merits of the case, I declined to interfere with the Superintendent's orders - Vide copy of my orders No. L.Dis.2742-41, dated 4-12-1941. (not received)

5. The appellant has no right of appeal to Government, since the Inspector General is the appellate authority.

6. The connected papers of enquiry are also enclosed.

for Inspr.-Genl. of Prisons.

AA/6-6.

(C. 15281/42) Home Deptt

Memo. No. Dr.

Jacob — warder No. 57, Alipuram Jail, Bellary — Reduction from second grade to first grade — petition to Govt.

Letter from the Inspector of Prisons, Rc. No. 1106/B4/42, dt. 5-6-42.

The Govt. of Madras are requested to forward / urgently copies of the petition addressed to Govt. vide G.O. No. 2428/42-4, dated 10-12-42 — para (2) on p. 5 — para 4 on p. 11.

Under Secretary

To

The I.G. of Prisons

(with D.R. 3 enclosures)

OFFICE OF THE SUPERINTENDENT
28 MAR 1942
ALIPURAM JAIL, BELLARY

The Secretary to the Government of Madras,

Home Department, M A D R A S.

Thro

The Superintendent,

Allipuram Jail, B E L L A R Y.

Jacob, Warder No. 5
Allipuram Jail, Bellary.....Petitioner.

The Petitioner most ~~humbly~~ humbly and respectfully begs leave to submit as follows:-

(1) That he was the Guard Officer at the Main gate of the Allipuram Jail on the night of 8-5-41. That in connection with the escape of 4 Prisoners from the Quarantine, the Petitioner and 3 sentries were handed over to the Police, who ~~x~~ arrested them and handed them over to ~~the~~ Judicial custody pending investigation. The house of the Petitioner was searched and nothing incriminating was found. The Petitioner had to engage a Lawyer to get himself enlarged on bail.

(2) The Police investigated the case and did not put up any charge sheet against the Petitioner and others.

(3) In spite of this, a departmental charge was framed against the Petitioner and the other warders. The charge against the Petitioner was that he failed to post the sentries at the Quarantine on the night of 8-5-41.

With reference to this charge the Petitioner submits:

(a) that it was never part of the duties of the Guard Officer at the main gate to post the sentries at the Quarantine, which is situate more than a furlong from the main gate.

(b) The Jail orders pertaining to the duties of the Guard Officer will bear out the contention.

(c) The 3 sentries for the night used to be locked up in the quarantine enclosure, and they used to mount guard at regular stated intervals and sign the Board kept there for the purpose.

(d) The Board at the quarantine was checked by the Round Officers, who incidentally checked if the proper sentry as indicated by the Board was on guard and signed the Board in token thereof.

(e) The Guard Officer only accompanied the Round Officer to open the outer gate of the quarantine to give entrance to the Round Officer.

(f) The Guard Officer never posted sentries and never signed the Board at the quarantine in token thereof.

A perusal of the Jail Records will bear out the contentions of the Petitioner.

(4) That the procedure detailed above was the one that was being followed and a change therein was deemed necessary and was effected, after the escape is indicated by the fact that a separate Guard Officer came to be posted at the quarantine after 8-5-41. The records will make this patent.

(5) Such being the case there was no point in punishing the Petitioner, who was never slack in his duties and was not negligent. The Petitioner was permanently reduced to ordinary grade ~~warder~~ warder. This harsh punishment was entirely undeserved.

(6) The order of the Superintendent while awarding the punishment did not state any grounds. The order is apposed to Law, the weight of evidence and the probabilities of the case. An appeal against the order was rejected by the Inspector General of Prisons.

(7) The Petitioner has faithfully served the Department for the last 20 years. He was made a 1st Grade Warder in 1928. Several Superintendents were pleased to recommend the Petitioner for promotion as Head Warder.

(8) The Petitioner before he entered the Jail Department served in the Reserve Police. Before that he served in the last War and after 5 years of service with 64th Pioneers was discharged and was declared eligible to General Service and Victory Medals. When the Allipuram Jail was closed last time the Petitioner was the only Head Warder, who was allowed to continue as Head Warder while all others were reduced.

(9) The Petitioner's antecedents have all along been good. His conduct has never come to be questioned.

(10) The Petitioner was subjected to all sorts of indignities and inconveniences, by his arrest and remand. And on the top of it from 9-5-41 to 21-8-41 was only allowed half pay.

(11) That the punishment of the Petitioner was out of all proportion to the offence, if any, is borne out by the fact that while in respect of the sentries their increments alone were stopped for 4 years, the Petitioner was reduced as an ordinary grade warder and that permanently.

(12) The Petitioner prays that the order of the Inspector General A-5428/41 dated 9-10-41, may be set aside and the Petitioner given his former rank as Head Warder.

For which act of kindness the Petitioner will ever humbly pray as in duty bound.

A Jacob
Petitioner.
24-3-1942

C.F. 16. 7

Home Dept.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	15/7/42	
When copied ..	7/8	Sec'y
When examined ..		
When signed ..		
When despatched.		

SUBJECT :—

Jacob – Warder No. 5, Alipuram Jail, Bellary – Reduction to II grade – Memorial to Govt. – Rejected.

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO* :—

C No. 15281 C/42 From the I.G. of Prisons, Roc No. 1106-B4/42 dated 5-6- 1942 / 1 c.f.

" _____ " _____ " _____ " _____ 19____

" _____ " _____ " _____ " _____ 19____

Order / ~~Resolution~~ Ms. / ~~Rout.~~ No. 2845, dated 7-8-42 19____

The petitioner should be informed that his memorial to Govt.

x ff 3 5 c-f

8 8

dated 24-3-42 has been rejected.

By
21-7-42

7/8/42

To

The I.G. of Prisons.
(with enclosures returned
Mat (1)

Passport withdrawn 11/8/42

Clerk
23/7/42

Home Dept

[CNO 15281C] From the Dy of Prisons Regl. No 1106-Bk/42 dt. 6-42

Subject:- Petition from Wander Dash against reduction.

Wander Dash was one of those who were charged with negligence of duty in connection with the escape of 4 Dep. of India prisoners from the Khijuwan jail on 8.5.41. A criminal case was first instituted against those who were responsible for the escape. But as there was not sufficient evidence, the Supt was instructed to withdraw the case and proceed departmentally. - Vide memo on p 54 of Fo no 4385 Home dt 3.6.41. based on Advocate's advice on p 79 of that file.

2 The Supt accordingly held a departmental enquiry. The charge against the petitioner is on p 5 at (T). For the Supt's finding, please see para 3 on pp 9-10 at (T). The petitioner who was a 1st grade warder from 1928 was permanently reduced as a 2nd grade warder by the Supt. On appeal, the Dy dismissed the request for reconsideration. The petitioner has no right of appeal to the Govt.

3 While the departmental enquiry was pending, the Dy was asked to ensure that the rules on departmental enquiries were fully observed. The Dy has certified that the enquiry was conducted as per rules, except that no petn was

specifically asked to show cause against reduction
The Courts held in some of their cases that ~~this was an~~
~~irregularity~~. any accused against whom charges are
framed should be specifically asked to show cause
against the particular punishment which was proposed
to be imposed. This is not an appeal. Public may be asked
to advise whether the defect referred to should be rectified
in this case. (The offices Memorandum No. 2861 Ests (Ser) I/42 dated 12.12.41
are not to have retrospective effect)

Memo

Home No
15281 C
25-6-4

ADDITIONAL UNDER SECRETARY
25 JUN 1942
PUBLIC DEPARTMENT

ASSISTANT SECRETARY TO GOVT
26 JUN 1942
SECRETARIAT

496-0
27/6
318

Public (Services) Department.

It is remembered that the point now raised was noted upon by this department in a similar case relating to one Sri V.C. Ramaswamy Ayyangar, late Town Surveyor, Dharapuram Municipality, Coimbatore District, which came to this department with Revenue w.o. No. 2248/42-2 dated 6.2.42. That case, it is understood, was finally disposed of in Go. No. 814 Revenue (Rev fdl) dated 28-3-42. Revenue may be requested to kindly put up the Go. in this file.

UNDER SECRETARY TO GOVERNMENT
10 JUL 1942
REVENUE DEPT.

AR
8.7.42

Pub (Sons) U.O. No
Rr 2952E 496-0/42-10
10 7 42—9.7.42

Revenue

Rev. Dept

3

To D.S.

Please see the note of the Pub (Ser) dept at p. 2 ante.

(A) G.O. No. 814 Rev (confl), dated ~~25~~ 28-3-42, required by that dept is put up at (A)

2 With ref: to D.S's note in pencil on p. 2 ante, it is submitted that A3's orders extracted at p. 1 of (B) which are apparently the orders referred to by D.S. seem to be applicable to the present case (also) ~~as it is case parallel to the one referred to in the extract. at (B)~~.

3 The file may be returned to Pub (Ser.).

IV 13-7-42

US 13.7.42

A In the two cases given in the extract at (B) the memorialist had not been given an opportunity to show cause against a specific punishment but it was considered that as the facts of the cases were clear it was not necessary to consult the Memorialist about this defect in procedure & the memorials were rejected In all such cases where the Memorialist has been consulted it has advised that the order be set aside on the ground of this irregularity (as at A above)

15-7-42

Pub (Ser)

ASSISTANT SECRETARY TO GOVT 6600 17 JUL 1942 CHIEF SECRETARIAT

Rev. U.O. No 2952-E/42-1 15-7-42.

Public (Services) Department

Please see the Home Department's note at pages 1-2 ante.

Under

4

Under regulation 22 of the Madras Public Service Commission Regulations, 1937, it is not necessary to ~~consider the~~ consult the Commission on any memorial relating to a disciplinary matter if the Provincial Government propose to reject it. In this case ~~case~~ the representation at pp. 3-5 C.F. being a memorial to Government, the Commission need not be consulted if Government propose to reject it.

The Inspector General of Prisons has certified that the enquiry conducted before reducing the petitioner was according to ~~as per~~ rules except that the petitioner was not specifically asked to show cause against reduction. The non-compliance with the provisions of section 240(3) of the Government of India Act, 1935, in this case being a mere technical flaw there will be no miscarriage of justice if Government reject the petition. The technical defect need not be rectified - please compare the orders in circulation in the two cases extracted at flag (B).

With the above remarks the file may be returned to the Home department.

MR
20.7.42.

ARN
22.7.42

ASSISTANT SECRETARY TO GOVERNMENT
27 JUL 1942
HOME DEPARTMENT

CS SJP

240742

Home

Publicity no
No. 496/42-2.
25.7.
19199C
29-7-42

UNDER-SECRETARY TO GOVT.
29 JUL 1942
HOME DEPT.

Home Depth
C3

Please see the Rev. Under Secretary's note on p. 3 ante and the Public Dept note above. For Orders whether the memorial will be rejected.

If so, the draft order below is for approved.

31-7-42

The facts of the case can be set out in the note at pp 1-2 ante. Draft for consideration

May be rejected

3842

A3 NW 6 8 42

After issue of sanction I will take steps to send this file with copies of Govt S.

NW 7-8 c.f. (Issued G.O. No. Ms. 2845 Home Dy. 7.8.42).

With ref. to Secy's orders in the margin above the original G.O. 2861 Pub (Sec) D. 12.12.41 at (G) is put up at (N)

The papers was in E.P.H dept. A n.o requisition was sent & the papers was received only today

24/8/42

24.8.42

25.8.42

Extract from G.O. No.1213, Revenue dated 28-5-1942.

Subject: Public Servants - (Salem) - Sri K. Periamma Pillai formerly head clerk, Deputy Tahsildar's Office, Denkanikotta - Dismissal from Service - Memorial - Rejected summarily.

I suggest that the precedent in G.O.No.1132, Revenue, dated the 15th May 1942 be followed.

There are other precedents in which we referred similar cases to the Commission, but Government is not obliged to. and in these difficult days it is only giving Collectors and Board a lot of work if we re-open closed cases on technical grounds. I think Government's interference should be confined to cases in which there has been a clear miscarriage of justice.

A.R.C.
21-5-42.

I fully agree,

Reject Memorial.

D.N.S.
21-5-42.

R.S.13-7-42.p.

7

[Non-Observance of Section 240(3) of the GOI Act]

Extract from G.O.No.1132-Rev. dated 15-5-42.

Subject: Public Servants (Malabar) - Sri U.P.Balakrishnan, formerly clerk, Revenue Department - Removal from service - Memorial Rejected summarily.

This is a very clear case, see Board's Order on pp.23-26 of B.P.Rt.3207 dated 14-7-1941.

I do not see why it should be re-opened because G.O.2861, Public (services) dated 12-12-41, has since appeared.

The petition may be summarily rejected as proposed by the Board on p.2 S.S.

A.R.C.W.
8-5-1942.

I agree.

G.T.B.
9-5-42.

V U / F C

Home Deptt

C. No. 15281C/42.

Subject: Jacob - Warder No. 5 - Alipuram Jail, Bellary — Reduction - Appeal to Govt.

Subject: Pub. Servants × - Disciplinary cases - Compilation - Vide 240 (1) - G.O. of G. Acts, instructions

The original of G.O. No. Ms. 2861 Public (Services) is required for Secretary's reference. It has been taken by P.M. K/s. (Korpakutty) for S & P. Dept C. No. 26490/42 P.H — Vide Record slip at (H)

That dept may be requested to release and put up the Original of the G.O. if the Govt have no objection.

7/8/42 S & P.H

Rj 7.8.42

7-8-42

Orly Office Please send it to the S P.H, Orly direct

Approved by A.S.

Home. No 15281C-1

ASST 8.42

9 AUG 1942 3679(G) EDUCATION AND PUBLIC HEALTH

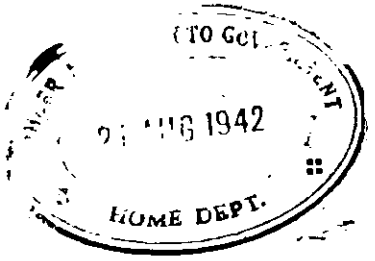
Kodur Subsidy file

Edn and P.H. Deptt

The original of the G.O. referred to above is put up in a file now in Madras. A slip has been to the Madras office to release the G.O. from the file & send it here as quickly as possible. This ~~G.O. should be forwarded soon to the Home dept~~ may be done this 13.8.42

10/8/42

11/8/42



Edn & P.H.

The original of G.O No 7861 Public (Services) dated 12.12.41 is put up below.

This may be ~~transferred~~ returned to Home Department. That dept. may be requested to send the necessary intimation slip to the B.R.B

Sent 24/8/42

G.P. 13/8/42

13/8/42

13/8/42

Home u/o

21152

Edn. P.H. & L.D. No 3679(S)C-1

13.8.42.

Sectt. II-70.

REQUISITION FOR RECORDS.

Madras Government Secretariat — Home Department — C Section — Record Issue No. — Date

UNDER SECRETARY TO GOVERNMENT 7-AUG 1942 HOME DEPT.

To
The Curator, Madras Record Office, Egmore
The Superintendent, Central Record Branch, Fort St. George.
The Librarian, Secretariat Library, Fort St. George.

The following records are required :—

Serial number. (1)	Nature of record [G.O. (Ordinary or Routine), Memorandum, Endorsement, Demi-official, Lodged papers, etc.]. (2)	Number. (3)	Department. (4)	Date. (5)	Whether Original (O), Sp. copy (S.C.), or Sp. copy with Notes (S.C.N.) (6)	Purpose. Current number. (7)	Purpose. Year. (8)	If not furnished, reasons. (9)
	Upon	2861	~~Home~~ pub (Sect)	12-12-41	O	1528	C/42	

Date 4/8/42

Signature R Swaminadhan
Designation Asst. Secretary

ACKNOWLEDGMENT.

Received the abovementioned records except items

Signature
Designation RJ